

California Regional Water Quality Control Board  
Santa Ana Region

August 22, 2003

ITEM NO. 11

SUBJECT: Appeal of Staff's Denial of an Exemption from the Minimum Lot Size Requirement for Subsurface Disposal Use – Godwin Osifeso, 7985 Gardenia Street, Alta Loma, San Bernardino County

DISCUSSION:

On July 1, 2003 Mr. Osifeso contacted staff regarding the proposed construction of a second dwelling unit on his lot in Alta Loma. Mr. Osifeso resides in a home located at the site. This existing home is connected to the sewer. The gross size of the lot is 20,148 sq. ft., or 0.46 acre.

Mr. Osifeso proposes to construct a second dwelling unit in the rear portion of his property. This second dwelling unit ("granny flat") would consist of a kitchen, bedroom and bath for Mr. Osifeso's mother. The installation of a 750-gallon septic tank-subsurface disposal system is proposed for the discharge of sanitary wastes from this second dwelling unit. Because of the topography of the lot, connection of the second dwelling to the sewer would require the installation of a pump/lift station. The lot slopes down from the front property line, where the sewer line is located, toward the rear property line, with an elevation difference of more than 12 feet.

On October 13, 1989, the Regional Board adopted Resolution No. 89-157, which requires new developments for which on-site subsurface disposal system use is proposed to have a minimum of one-half acre of land per dwelling unit. The Board found that it was necessary to limit the density of new subsurface disposal systems to control the nitrate quality problems in groundwaters of the Region. Mr. Osifeso's property has easements on the front and back of property; however, these easements are not acknowledged in the property deed and therefore are not utilized in the calculation of the overall size of the lot. If these easements were included, Mr. Osifeso's property would comply with the minimum lot size requirement of one-half acre.

In adopting the minimum lot size requirements (MLSRs), the Board recognized that there would likely be proposals for additions to existing developments that would result in increased wastewater flow. The Board's MLSRs address these circumstances. The MLSRs distinguish between the types of additions to existing dwelling units. Additions to existing dwellings (bedrooms/bathrooms) are exempt from the MLSRs. However, the MLSRs state that any proposal to add a freestanding structure that would result in additional wastewater flows must be considered a "new" development. The proposed second dwelling unit would be a freestanding structure. As such, the project as a whole (the existing house and the second dwelling unit) would be considered a "new" development to which the one-half acre minimum lot size requirement applies. Mr. Osifeso's lot is slightly less than one half acre in size (1,632 sq. ft

short) and, therefore, staff was required to deny his request for approval of the use of the septic tank system for the project.

The intent of distinguishing between additions that are attached to existing dwellings and freestanding structures was to guard against the use of the freestanding structure as a second single-family residence on the property, which would result in substantial additional wastewater flows.

Staff believes that there are at least two factors that would support granting an exemption for this proposed project:

1. The lot is very close (0.46 acres) to the required half-acre minimum requirement, and
2. It is highly unlikely that the proposed 1-bedroom, 1-bath second dwelling unit will ever become a second single-family residence on the property.

The City of Rancho Cucamonga Building Department gave oral conditional approval to proceed with the project, but clearly identified the need to obtain approval for the project from the Regional Board first. Mr. Osifeso has started building the foundations and plumbing for the project at his own risk (See attached pictures).

**RECOMMENDATION:**

Approve Mr. Osifeso's request for an exemption from the minimum lot size requirements.

Comments were solicited from the following agencies:

State Water Resources Control Board, Office of Chief Counsel – Jorge Leon  
City of Rancho Cucamonga, Building and Safety – John Hurst/Bill Maksanoff



PICTURE TAKEN LOOKING UP-SLOPE SHOWS RETAINING WALL THAT WILL SUPPORT REAR WALL OF PROPOSED GRANNY FLAT. LOWER GROUND LEVEL WILL BE POSSIBLE LOCATION OF SEPTIC TANK SUBSURFACE DISPOSAL SYSTEM. (JULY 15, 2003)



PICTURE TAKEN LOOKING DOWN ON THE PROPOSED SLAB AND FOUNDATION FOR PROPOSED GRANNY FLAT (JULY 15, 2003)